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12 **Minidoka County School District #311**

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**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF DISTRIBUTION OF)
WATER TO WATER RIGHT NOS 36-15501,) **PETITION FOR EXCLUSION**
36-02551, AND 36-07694) **FROM AMENDED ORDER**

Minidoka County School District #311, by and through its attorneys Roger D. Ling and Brian J. Coffey of the firm of Ling, Robinson & Walker, states and represents to the Director as follows:

COUNT I

1. On March 10, 2004, the Director issued an Amended Order making findings of fact and conclusions of law regarding a call for water by Rangen, Inc. based on Rangen's claim to surface water rights to certain spring flows in the Thousand Springs reach of the Snake River. The order sets out a plan for curtailment of ground water rights in Water District 130 junior to July 13, 1962, unless certain conditions are met regarding mitigation and replacement water.

2. Minidoka County School District #311 is the beneficial owner of certain water rights

sought to be curtailed by the Amended Order of the Director dated March 10, 2004, described as follows:

<u>Water Right</u>	<u>Priority</u>	<u>Rate</u>	<u>Volume</u>	<u>Acre Limit</u>	<u>Source of Water</u>
36-07134	6/24/1970	.38 cfs	76 af	19 ac	Ground/Recaptured Minidoka Irrigation District Project Water
36-07135	6/24/1970	.38 cfs	76 af	19 ac	Ground/Recaptured Minidoka Irrigation District Project Water
Total		.76 cfs	152 af	38 acres	

3. Minidoka County School District #311 recaptures irrigation surface water from lands within the Minidoka Irrigation District Project pursuant to Idaho Code §42-228. As such, no license is required by the school district to use this water. This petition is being filed in an abundance of caution, and to prevent any curtailment of the school district's use of its wells used to divert this recaptured project water.

4. That recaptured water is reused by Minidoka County School District #311 to irrigate the 38 acres of school district property, specifically up to 19 acres at East Minico Junior High School and up to 19 acres at West Minico Junior High School in Minidoka County, State of Idaho.

5. The original source of this recaptured project water is surface water from within the Minidoka Irrigation District project, is not derived from the Eastern Snake River Plain Aquifer (ESPA), and is therefore not subject to call under the Amended Order of the Director.

COUNT II

1. Minidoka County School District #311 adopts and incorporates herein as though fully set forth paragraphs 1 and 2 of Count I.

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3 2. The Director has failed to curtail water rights to the groundwater of the entire ESPA
4 that may be junior to petitioner's rights.

5 3. Acts of the Director are contrary to the laws of Idaho, and the order of March 10,
6 2004 should be amended to curtail all ground water diversions junior in the ESPA junior to
7 petitioner or be withdrawn.

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9 WHEREFORE Minidoka County School District #331 prays for the following relief:

10 1. That Minidoka County School District #311 be wholly excluded from the
11 Amended Order of the Director of March 10, 2004;

12 2. That none of Minidoka County School District #311's water rights listed in
13 Count I be curtailed by reason of the petition set forth above;

14 3. That the director adopt and approve the use of recaptured project water set
15 forth above as a valid and reasonable use under water rights that are not subject
16 to curtailment by the Order of the Director;

17 4. That the Director and the Department manage the ESPA for the benefit of
18 Minidoka County School District #311 as well as other appropriators;

19 5. That any curtailment order of the Director or the Department be amended to
20 provide that any curtailment of water rights in the ESPA will be carried out against
21 junior appropriators in order of seniority among the class of juniors from least
22 senior to most senior;

23 6. That no curtailment be applied against any water rights of Minidoka County
24 School District #311 until curtailment of all users junior to the school district has
25 been completed;

26 7. For such further relief as may be requested at the time of hearing in this
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3 matter.

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5 DATED this 15th day of March 2004.

6 Ling, Robinson, and Walker

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8 By: 

Roger D. Ling

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10 
11 Brian J. Coffey

Attorneys for Petitioner

Minidoka County School District #331

12
13 **CERTIFICATE OF MAILING**

14 I hereby certify that on the 15th day of March 2004, I served the original of
15 the foregoing **Petition for Exclusion from Order** upon:

16
17 Karl J. Dreher, Director
18 Department of Water Resources
19 1301 North Orchard Street
20 Statehouse Mail
21 Boise ID 83720

22 and copies of said **Petition for Exclusion from Order** upon:

23 J DEE MAY
24 MAY SUDWEEKS
25 PO BOX 1846
26 TWIN FALLS ID 83303-1846

SCOTT CAMPBELL
MOFFATT THOMAS
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29 PETITION FOR EXCLUSION FROM ORDER -- 4 --

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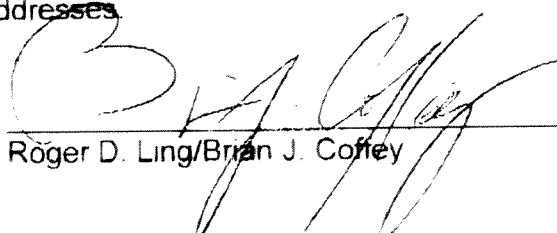
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by depositing said document in the United States mail, postage prepaid, in envelopes addressed to said parties at the foregoing addresses.



Roger D. Ling/Brian J. Coffey